

**BOARD OF ADJUSTMENT MEETING
CITY OF FORT LAUDERDALE
WEDNESDAY, AUGUST 8, 2012 – 6:30 P.M.
CITY HALL CITY COMMISSION CHAMBERS – 1ST FLOOR
100 NORTH ANDREWS AVENUE
FORT LAUDERDALE, FLORIDA**

		Cumulative Attendance 6/2012 through 5/2013	
	Attendance	Present	Absent
Board Members			
Diana Waterous Centorino, Chair	A	2	1
Michael Madfis, Vice Chair	P	3	0
Caldwell Cooper	P	2	1
Karl Shallenberger	P	3	0
Henry Snizek	P	3	0
Fred Stresau	P	3	0
Sharon A. Zamojski	A	2	1
Alternates			
Roger Bond	P	3	0
Charlie Ladd	P	3	0
Birch Willey	P	3	0

Staff

Bob Dunckel, Assistant City Attorney
Gail Jaggesar, Administrative Aide
Mohammed Malik, Director of Zoning
B. Chiappetta, Recording Secretary, Prototype Inc.

Communication to the City Commission

None

Purpose: Section 47-33.1.

The Board of Adjustment shall receive and hear appeals in cases involving the ULDR, to hear applications for temporary nonconforming use permits, special exceptions and variances to the terms of the ULDR, and grant relief where authorized under the ULDR. The Board of Adjustment shall also hear, determine and decide appeals from reviewable interpretations, applications or determinations made by an administrative official in the enforcement of the ULDR, as provided herein.

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Call to Order

Mr. Madfis called the meeting to order at 6:30 p.m. He introduced Board members and determined a quorum was present.

Approval of Minutes – July 2012

Motion made by Mr. Stresau, seconded by Mr. Cooper, to approve the minutes of the Board's July 2012 meeting. In a voice vote, motion passed unanimously.

Board members disclosed communications they had and site visits made regarding items on the agenda.

All individuals wishing to speak on the matters listed on tonight's agenda were sworn in.

1. **APPEAL NO. 12-26**

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OWNER: Evgeny Volter & Olga Moskaleva
LEGAL: Progresso 2 – 18 D Lot 20 Blk 37
ZONING: RDS-15
STREET: 1528 NE 2 Ave
ADDRESS: Fort Lauderdale, FL
DISTRICT: 2

APPEALING: Section 47-5-32 (Dimensional requirements for the RD-15 and RDs-15 districts)

Requesting a variance to allow a carport canopy at a distance of 1.35 feet from the side (north) property line and 19.90 feet from the front (west) property line, where the code states that the minimum side yard requirement in the RDs-15 zoning district is five (5) feet and that garages and carports may extend into a required front yard in RD, RC and RM zoning districts when accessory to a single family dwelling but no closer than twenty (20) feet from the front property line.

Mr. Dunckel wanted the record to reflect that the application also included a variance request for 47-19.2.k, which provided for a 20-foot setback for garages and carports. This had been erroneously deleted from the notice.

Evgeny Volter, owner, stated they had renovated the property in 2007 and pulled the appropriate permits. He said they had been unaware of the current code changes regarding carport location. He noted that this was the only possible location for the carport on the property, so they either needed a variance or must remove it. Mr. Volter stated his immediate neighbors had no objection to the carport.

Mr. Volter said he had purchased the home in 2004. He had a letter from the former owner who stated in the 70s, when he owned the house, the only requirement was for a carport to be attached to the house. Mr. Volter said the "L" bracket still held the carport to the house. He informed Mr. Shallenberger that he had found no record of a permit application for the carport.

Mr. Dunckel noted that historically, there had been 25-foot front yard setbacks in the code and later on, the City had "carved out exceptions." So initially, this property would have had to abide by the setbacks.

Mr. Madfis said the Board was not seeing plans from the original permit to examine or photos showing how the structure was supported. Mr. Volter was unaware that photos should be provided.

Mr. Madfis opened the public hearing. There being no members of the public wishing to address the Board on this item, Mr. Madfis closed the public hearing and brought the discussion back to the Board.

Motion made by Mr. Stresau, seconded by Mr. Cooper, to approve. In a roll call vote, motion **failed** 4 – 3 with Mr. Cooper, Mr. Stresau and Mr. Shallenberger opposed.

2. APPEAL NO. 12-27

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OWNER: David Ide
LEGAL: "PROGRESSO" 2-18 D LOT 5,6 BLK 260
ZONING: RMM-25
STREET: 837 NW 1 Ave
ADDRESS: Fort Lauderdale, FL
DISTRICT: 2

APPEALING: Section 47-20.5.C.6.a (Design)

Requesting a variance to allow the stacking requirement to be reduced to 14 feet 8 inches for a 3-unit apartment building, where the code states a stacking area shall be designed to include a space of twelve (12) feet wide by twenty-two (22) feet long for

each vehicle to be accommodated within the stacking area and so that vehicles within the stacking area do not block parking stalls, parking aisles or driveways of off-street parking facilities.

David Ide said he also owned the building next-door, and said he wanted to get three units built on this property.

Mr. Malik informed Mr. Madfis that the City engineer did not have leeway to grant this. Mr. Madfis said he anticipated minimal activity from this driveway and he thought the variance was more of an administrative procedure.

Mr. Stresau said he had struggled with this request. He had visited the site and felt granting the variance would not harm the neighborhood. Mr. Stresau noted there were only five parking spaces.

Mr. Madfis opened the public hearing. There being no members of the public wishing to address the Board on this item, Mr. Madfis closed the public hearing and brought the discussion back to the Board.

Motion made by Mr. Cooper, seconded by Mr. Stresau, to approve. In a roll call vote, motion passed 7 – 0.

3. APPEAL NO. 12-29

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APPLICANT: Las Olas Property Management
AGENT: Jose M Erazo
LEGAL: "Las Olas by the Sea" Re-Amen Plat 1-16 B Lot 14 Less S 20
M/L for St Bk 6
ZONING: PRD (Planned Resort Development District).
STREET: 235-237 Almond Ave
ADDRESS: Fort Lauderdale, FL
DISTRICT: 1

APPEALING: Section 5-26 (Distance between establishments)

Requesting a variance to allow the sale of alcohol at a distance of 175 feet from other establishments that sell alcohol, where Code requires a minimum of 300 feet separating

Steve Carbone, one of the owners, said they had begun the permit process by appealing to the DRC for a change of use. On April 28, 2012, they had obtained a temporary Certificate of Occupancy [CO] and opened for the Air and Sea Show weekend. They had already obtained a 4COP Liquor License. Mr. Carbone stated a "liquor measurement" had been done in July 2011 but this issue had not come to their attention until compiling all the requirements for the final CO.

Mr. Dunckel pointed out that in order to obtain a 4COP license, Zoning must sign off on the permitted use. Mr. Carbone confirmed that it had been signed off by Planning and Zoning. Mr. Dunckel reminded the Board that they sometimes saw cases for special exceptions for a restaurant, which required the evidence to show only that this would not be contrary to the public interest. For a bar, a variance was required, and the request must meet the criteria for a variance.

Carl Corso, the contractor's representative, informed Mr. Madfis that there had formerly been a bar across the street that had obtained a variance.

Regarding the application for the variance, Mr. Shallenberger said, "There's absolutely nothing here." He noted that information sheet requested a special exception, not a variance, and there were no special circumstances listed. He wondered why the application was before the Board. Mr. Stresau recalled the Board deciding that if staff determined an application did not provide the technical specifications for the Board's consideration, they would not hear the case. He pointed out that none of the criteria had been responded to in this application.

Mr. Cooper could not understand how permits had been pulled to build a bar. Mr. Dunckel stated the permit specified that they must comply with all other provisions of the ULDR. He felt the owners should have been informed about the need for a variance earlier. Mr. Dunckel said he had noted on the floor plan that there was no food preparation area. He said the owner could add this and re-apply for a special exception.

Mr. Stresau felt if staff could not or would not require an applicant to fill out the request properly, the Board should table the item and tell the applicant to do it the right way. He pointed out that the applicant had applied for a special exception and staff had not caught it.

Mr. Shallenberger advised Mr. Carbone to fill out the paperwork properly, and said he would vote in favor of it, but in the application's current form, he would not.

Mr. Madfis opened the public hearing.

Fred Carlson, beach resident, said this project was "very disturbing." He said the Central Beach Alliance had worked with owners on Almond Avenue to beautify the street. He stated in the last two years, they had big issues regarding noise issues and this bar had incited a flood of noise complaints. Mr. Carlson said he had discussed this issue with the Quarterdeck Bar owner, Paul Flanigan, and the President of the Central Beach Alliance, and represented them, and their opposition to this request, at this meeting.

Shawn Rees, another owner of the bar, reported that many of his friends and area residents had requested a bar such as this for locals. Mr. Rees said the bar was air conditioned and the doors were kept closed, and noise from the bar was minimal in the street. He felt there was a breakdown in the City's system that had allowed them to open the bar and now threatened to force it to close.

There being no other members of the public wishing to address the Board on this item, Mr. Madfis closed the public hearing and brought the discussion back to the Board.

Mr. Ladd said he had spoken with Frank Zafari at the Quarterdeck, and he had stated that e had been contacted by the Central Beach Alliance requesting support to oppose Mr. Carbone's bar, but he in fact had no problem with it.

Motion made by Mr. Stresau to approve. Motion died for lack of a second.

Mr. Dunckel warned Mr. Carbone that if the request was denied, he would be unable to reapply for two years. He advised him that he could request a continuance and return to request the variance or return having made modifications to the premises to fit under the restaurant portion of the code to request a special exception. Mr. Carbone agreed to request a continuance.

Motion made by Mr. Ladd, seconded by Mr. Sniezek, to defer for 30 days. In a voice vote, motion passed unanimously.

4. APPEAL NO. 12-30

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OWNER: Las Olas Place II, LLC

AGENT: Courtney Crush P.A.

LEGAL: HIMMARSHEE PARK 1-20 B POR LOT 1 TO 5 DESC AS: COMM NE LOT 5, NW 105.65 TO POB, NW 86.86, W 195.36, SE 33.45, SE 25.58, SE 41.02, SE 114.06, SE 88.03, SE 36.52, SE 28.22, NE 10.61, NW 32.53, NW 34.80, NW 85.38, NW 64.29, E 12.91, N 1.67, E 2.50, S 1.58, E 3.34, SE LY 4.92, NE 19.17, SE 133.33, SW 2.08, SW 8.85, SE 7.35, NE 27.93, SE 20.67, NE 20.66, SE 1.33, NE 47.50, SE 5.67, NE 14.58, NW 5.67, NE 8, NW 8.25, NE 20.75, NW 76.41, NE 27.92, NELY 13.50 TO POB; AKA: COMMERCIAL AREA; HIMMARSHEE LANDING

ZONING: B-1/X-G-R

STREET: 1200 East Las Olas Boulevard

ADDRESS: Fort Lauderdale, FL

DISTRICT: 4

APPEALING: Section 47-22.3.H (Ground Sign)

Requesting a variance to allow a ground sign seventeen (17) inches from the property line where the code states that ground signs shall have a minimum setback of five (5)

feet from the front property line and a minimum of five (5) feet from interior side property line.

Courtney Crush, agent, showed a rendering of the proposed sign and informed the Board that the sign would be located to the right of the main entrance, in between two columns. They were proposing a permitted ground sign 17" from the property line [mounted on the building].

Ms. Crush informed Mr. Ladd that the sign could be recessed approximately 10" from the front of the column. Mr. Dunckel said the Board wanted the sign to be recessed as far back from the front of the column as practicable and Ms. Crush agreed.

Ms. Crush informed Mr. Stresau that the sign was lit internally. Mr. Ladd asked if the applicant would consider an un-lit sign and Ms. Crush agreed to ask her client.

Mr. Madfis said what perturbed him most was "the overall context that's been...developed for signage on the property for...monument tenants...of this nature." He felt the entranceway could be redesigned to better accommodate the signage.

Mr. Ladd felt the signage was not very significant, and this was probably the most tasteful spot for it.

Mr. Madfis opened the public hearing. There being no members of the public wishing to address the Board on this item, Mr. Madfis closed the public hearing and brought the discussion back to the Board.

Ms. Crush did not feel the lighting was inappropriate and Mr. Madfis agreed.

Motion made by Mr. Shallenberger, seconded by Mr. Cooper, to approve. In a roll call vote, motion passed 7 – 0.

Communication to the City Commission

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None.

Report and for the Good of the City

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Mr. Shallenberger said he resented receiving applications that were not complete. Mr. Malik said they had created a sample package for people to consult. Mr. Stresau said if the staff's position was that they would accept an application, it should contain a warning that the Board could table any application that was not properly completed. Mr. Ladd felt the Board had handled this issue properly this evening.

Mr. Cooper asked how much direction applicants received when completing the applications. Mr. Malik said staff usually went through the application page by page and

advised applicants how to complete it. A few months ago, Mr. Fajardo had directed people to examine an example form that had been properly completed. Mr. Madfis felt there should be a facilitator to help people who did not have the professionals to help them through the process.

Mr. Dunckel suggested that the paperwork given to the applicant indicate that the Board had a "very strong preference of not going forward with a case when the application has not been completely filled out."

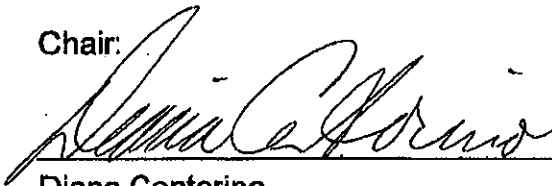
Mr. Dunckel referred to the application information sheet and said it did indicate that "Incomplete applications will not be accepted."

Mr. Stresau stated a new project was going up on the northwest corner of Davie Boulevard and Andrews Avenue. He recalled that the Board had granted a variance for a 400-foot aluminum fence with the condition that a hedge be planted behind it and allowed to grow through it. The project was approximately 85% complete and the current owner had left the fence in place. He said the Board should have put a condition in the original variance that would have the variance expire if the footprint of the building changed. Mr. Willey felt the original variance might have included conditions and suggested the original variance be researched. Mr. Stresau said they must also confirm the owner intended to leave the fence in place.

Mr. Stresau believed the Board would see more and more carport canopy requests. Mr. Ladd felt it unfair that for the case the Board had heard this evening; the owner had purchased the house with the carport and later been cited by Code Enforcement. He noted that this was very different from an owner who built a carport himself. Mr. Dunckel said Code Enforcement usually responded to complaints; they did not "just pick someone out at random." But he could not say what happened in this case.

There being no further business to come before the Board, the meeting was adjourned at 8:06 pm.

Chair:


Diana Centorino

Attest:



ProtoType Inc.

Minutes prepared by: J. Opperee, Prototype Inc.